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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/662,968
Filing Date: September 15, 2000
Appellant(s): WINARSKI, ESQ. ET AL.

Jeffrey D. Moy (Reg. No. 39,307)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 22 July 2009 appealing from the Office action mailed 28 October 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

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Examiner's rejection of pending Claims 11-16 and 18 as being unpatentable over U.S. Patent No. 7,038,637 issued to Eller et al. in view of U.S. Patent No. **6,424,998** issued to Hunter and U.S. Patent 6,167,382 issued to Sparks

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

7,038,637	ELLER et al.	5-2006
6,424,998	HUNTER	7-2002
6,167,382	SPARKS et al.	12-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 11 – 16 and 18 are not patentable under 35 U.S.C. 103(a) over Eller et al. US Patent 7,038,637 in view of Hunter, US Patent 6,424,998 and Sparks et al. US Patent 6,167,382.

Regarding claims 11, 13 – 16 and 18, Eller teaches an apparatus for a wireless electronic billboard commerce system. Eller teaches:

plurality of electronic billboards with:

a video display for showing a video stream [Eller, Fig. 2 and disclosure associated with Fig. 2]; Eller does not explicitly teach different types of video display devices. However, Hunter teaches different type of video display devices for displaying of image [Hunter, claim 5].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was adopted the idea of using different type of video display devices and modify Eller to have capability of providing billboard services in plurality of types of locations. For example, in store billboard may be LED display whereas, in a trade show the display device is a LCD device which is larger display but takes lesser space as compared to an LED device.

Eller in view of Hunter teaches:

a billboard computer adapted to process digital files to show on said video display as a video stream, said billboard computer is coupled to and controls said video display [Eller, Fig. 2 and disclosure associated with Fig. 2]; and

Eller in view of Hunter does not explicitly teach billboard antenna coupled to billboard computer for transferring video data to said billboard computer. However, Eller teaches ads can be uploaded to the billboard system through a direct connection locally, or remotely using landlines, cable, satellite signaling, fiber optic cable, wireless transmissions, etc. [Eller, Col. 2, lines 53 – 56]. **It is old and known to one of ordinary skill in the art that wireless communication requires an antenna to catch the signal** (see KSR Int'l Co. v. Teleflex, Inc., No 04-1350 (U.S. Apr. 30, 2007)).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that Eller in view of Hunter teachings have a billboard antenna coupled to said billboard computer to be able to catch the signal containing the data in a wireless communication environment as taught by Eller, combine prior art elements according to known methods to yield predictable results.

Eller in view of Hunter teaches capability wherein:

a local Ethernet coupled to a global computer network (using commercially available technology like Token-ring, Ethernet etc. to implement LAN to connect local devices is old and known to one of ordinary skill in the art). **Also, it is known to one of ordinary skill in the art the distributed network environment of a business wherein remote office are also sometimes identified as Small Office Home Office (aka SOHO) have computer systems interconnected in their premise using commercially available networking technology like Token-Ring, Ethernet etc. to make a Local Area Network (aka LAN), and, by using a router (manages local Ethernet) connect said LAN to the Central Office and other remote satellite office(s) using Wide Area Network using commercially available solutions like IBM SNA, High Speed Internet, DSL, Wireless Networks like VSAT, DirecPC etc. In addition, applying modern electronics to older systems has been commonplace in recent years (Leapfrog Enterprises, Inc. v. Fischer Price, Inc., 485 F.3d 1157, 82 USPQ2d 1687; Fed. Cir. 2007)**

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Eller in view of Hunter teaches concept wherein said local Ethernet can comprise:

- a main computer (e.g. router, bridge etc.) to manage said local Ethernet;

- a communication system to wirelessly communicate with the plurality of electronic billboards, wherein the communication system comprises:

 - a communication server coupled to the main computer system for storing data to transmit; and

 - a transmission antenna coupled to said communication server to transmit the data and receive transmitted data (as responded to earlier, in a wireless communication system, antenna is used for transmission of and receiving of the signals);

- a web server coupled to the main computer for hosting a website accessible from the global computer network;

- a database server coupled to the main computer, the database server comprising:

Even though, Eller does not explicitly recite a registration system to allow a party to become a registered user of said wireless electronic billboard commerce system.

However, Eller implicitly teaches a registration system to allow a party to become a registered user of said wireless electronic billboard commerce system. Eller recites "certain pre-approved clients may be able to skip step 308 and upload their ad directly to the billboard system" [Eller, col. 3, lines 50 - 51]. This clearly teaches that Eller has the capability to identify advertisers who can upload their ad directly to the billboard

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system. Also, Eller teaches clients can make purchases either through a set up account or by making payment at the time of purchase [Eller, Fig. 3, 306]. **Also, using a known technique for logging on to a system of a business is an old an known concept. For example, Amazon.com, BarnesAndNoble.com, Sears.com which allows only users who are registered to make purchase on their websites. Concept of applying a known technique to a known device or method ready for improvement to yield predictable result is obvious to one of ordinary skill in the art; known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art.**

Sparks teaches system and method wherein a user can design a production of advertising over the internet. Sparks teaches concept of using a registration system [Sparks, Fig. 3, 4 and disclosure associated with the Figure].

Therefore, at the time of invention, it would have been obvious to one of ordinary skill in the art to modify Eller in view of Hunter by adopting teachings of Sparks to be able to control access to the system, combine prior art elements according to known methods to yield predictable results.

In addition, even though, Eller in view of Hunter does not teach an ad creation system coupled to login system for allowing register user to create new video advertisements said wireless electronic billboard commerce system to display on at least one of said plurality of electronic billboards (i.e. not created at user workstation). However, Eller in view of Hunter teaches the idea wherein client downloads add

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creation software from the system for creating new video advertisements to display on at least one of said plurality of electronic billboards [Eller, Fig. 3 and disclosure associated with Fig. 3]; Sparks teaches that a remote user can create ad on the system (i.e. created on the system by a remote user) [Sparks, col. 5, line 42 – col. 6, line 47].

Therefore, at the time of invention, it would have been obvious to one of ordinary skill in the art to modify Eller in view of Hunter by adopting teachings of Sparks and allowing users to create ad on the system to implement license control by minimizing user downloading ad creating software from the system, combine prior art elements according to known methods to yield predictable results.

Eller in view of Hunter and Sparks teaches concept of:

a registration system to allow a party to become a registered user of said wireless electronic billboard commerce system [Eller, Fig. 3 and disclosure associated with Fig. 3];

login system coupled to the registration system to allow registered users access to said wireless electronic billboard commerce system, wherein the login system will send a security alert to the main computer when a login ID and password are invalid multiple times within a predefined time frame to freeze an associated account. Freezing of an account upon multiple predefined times to secure the system is old and known to one of ordinary skill in the art at the time of invention (see *KSR Int'l Co. v. Teleflex, Inc.*, No 04-1350 (U.S. Apr. 30, 2007)) [Eller, Fig. 3 and disclosure associated with Fig. 3];

an account system coupled to said login system to allow the registered user to view and update financial activity, billboard purchases, contact information, and billing information [Eller, Fig. 3, and disclosure associated with the figure];

an ad creation system coupled to the login system for allowing said register user to create new video advertisements within said wireless electronic billboard commerce system to display on at least one of said plurality of electronic billboards [Sparks]

an access purchase system that provides a table of billboard information, said table of billboard information includes a listing of available locations, a listing of available time periods, and a listing of prices, said access purchase system searches a database to determine if said electronic billboard is available to display said advertisement at a requested location and a requested time [Eller, Fig. 3 and disclosure associated with Fig. 3];

a video advertisement stored as a digital file in the database server, said digital file is uploaded to said main computer through said global computer network, said main computer transfers said digital file to said communication system, said communication system transmits said digital file as a signal, said billboard antenna receives said signal, said billboard computer processes said signal, said billboard computer shows said signal on said video display as a video stream [Eller, Fig. 3 and disclosure associated with Fig. 3],

web-site accessible on said global computer network.

upload database, access purchase system provides an upload code for said digital file when said advertisement is purchased, determine if upload code is

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acceptable, transfer digital file to communications system when upload code is verified. (Eller teaches concept wherein a user uploads advertising content which will be displayed at the advertiser's selected billboard(s) at the time purchased by the advertiser [Eller, Fig. 3, 309]. **This clearly teaches that Eller teaches some kind of storage means to be able to download advertiser uploaded advertisement content to the selected billboard at the time selected by the advertiser).**

Regarding claim 12, as responded to earlier, Eller in view of Hunter and Sparks teaches satellite for receiving digital file from said communication server and transmits said digital file to said billboard antenna (Eller teaches using satellite communication for transmission of advertisement to remote billboard).

(10) Response to Argument

In response to appellant's argument cited references do not teach the concept of using Local Ethernet to transmit and display digital file.

However, it has been explained in the office action how one of ordinary skill in the art use Local Area Networks to implement as Small Office Home Office environment (aka SOHO) to interconnect plurality of devices and connect said plurality of devices to Central Office or other remote offices over a Wide Area Network.

In response to applicant's argument that cited references do not teach concept and capability for an ad creation system coupled to the login system for allowing said

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register user to create new video advertisements within said wireless electronic billboard commerce system to display on at least one of said plurality of electronic billboards.

However, cited reference Sparks teaches concept of an integrated advertising production system with the capability that allows a user or client to generate and order advertisement on a dedicated internet site [Sparks, col. 1, lines 66 - col. 2, line 11].

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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